

Michael P. Balaban State Bar No. 9370
LAW OFFICES OF MICHAEL P. BALABAN
10726 Del Rudini Street
Las Vegas, NV 89141
(702)586-2964
Fax: (702)586-3023

Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

DAVID LARITA-AREOLA, JYRO
REMANES, ANTHONY BUMCROT,
JONATHAN CRUZ, MIRA MUNIZ,
EDUARDO REYES, DANIAL BRIDGES,
STEPHANIE MARSHALL, JASON COX,
MATTHEW CARABALLO, ANDREW
JONES, RON CHRISTIE, DEVIN MARTY,
MERSADIES GRAVES, AMY MORENO,
ANTONIO ROBERTO RIOS, JASE RIOS,
ARIELLE BROOKS, ALAN MILES, RICKY
WOLFINBARGER, CAMERON KEANE,
DEREK HALLBERG, CARLOS FRANCISCO
MARTINEZ, DIMITRIUS OLLARVIA,
JOSHUA RIOS, JASMINE JONES, JESSE
ROMERO, NICK RINALDO, ANGELICA
CANELA, MICHAEL RODRIGUEZ,
ALEXANDER BROWN, BAILEY KEIBLER,
BRANDON CALDERONE, DYLAN
DUGGINS, DULAL WOODS, JULIO
ANCHONDO, SONYA GUERRERO, RIDGE
JACOB, KAZU VILLIATORA, KIMBERLY
BATIE, KYLE CHRISTOPHER, STEVEN
ERVIN, NICHOLAS LEMOINE, DEVEN
MYERS and DEBORAH WALKER,

Plaintiffs,

vs.

VEGAS VALLEY GROWERS, LLC, a
Nevada Limited Liability Company; JCL
GROUP, LLC, a Nevada Limited Liability
Company and JCL GROUP, LLP, a Nevada
Limited Liability Partnership,

Defendants.

CASE NO.

DEPT NO.

COMPLAINT FOR DAMAGES AND OTHER
RELIEF BASED UPON:

FAILURE TO PAY MINIMUM WAGES
AND OVERTIME WHEN DUE IN
VIOLATION OF THE FLSA

1 DAVID LARITA-AREOLA, JYRO REMANES, ANTHONY BUMCROT, JONATHAN
2 CRUZ, MIRA MUNIZ, EDUARDO REYES, DANIAL BRIDGES, STEPHANIE MARSHALL,
3 JASON COX, MATTHEW CARABALLO, ANDREW JONES, RON CHRISTIE, DEVIN
4 MARTY, MERSADIES GRAVES, AMY MORENO, ANTONIO ROBERTO RIOS, JASE RIOS,
5 ARIELLE BROOKS, ALAN MILES, RICKY WOLFINBARGER, CAMERON KEANE, DEREK
6 HALLBERG, CARLOS FRANCISCO MARTINEZ, DIMITRIUS OLLARVIA, JOSHUA RIOS,
7 JASMINE JONES, JESSE ROMERO, NICK RINALDO, ANGELICA CANELA, MICHAEL
8 RODRIGUEZ, ALEXANDER BROWN, BAILEY KEIBLER, BRANDON CALDERONE,
9 DYLAN DUGGINS, DULAL WOODS, JULIO ANCHONDO, SONYA GUERRERO, RIDGE
10 JACOB, KAZU VILLIATORA, KIMBERLY BATIE, KYLE CHRISTOPHER, STEVEN ERVIN,
11 NICHOLAS LEMOINE, DEVEN MYERS and DEBORAH WALKER (hereinafter "Plaintiffs")
12 allege as follows:

13
14 **INTRODUCTION**

15 1. Plaintiffs are individuals who now and at all times mentioned in this complaint were
16 residents the County of Clark and State of Nevada.

17 2. Defendant VEGAS VALLEY GROWERS, LLC, a Nevada Limited Liability
18 Company; JCL GROUP, LLC, a Nevada Limited Liability Company and JCL GROUP, LLP, a
19 Nevada Limited Liability (hereinafter "Defendants") are now, and at all times mentioned in this
20 complaint were limited liability companies and partnerships organized and existing under the laws of
21 the State of Nevada, with their principal places of business in the City of Las Vegas, County of Clark,
22 State of Nevada.

23 3. This Court has jurisdiction over the subject matter of this action because it involves a
24 federal question under the Fair Labor Standards Act, 29 USC §§201-219 (hereinafter "FLSA"). 28
25 USC §1331.

26 4. Venue is proper in this district pursuant to 28 USC §1391(b) because the events and
27 omissions giving rise to this action occurred in this district.
28

STATEMENT OF FACTS

5. Defendants operate a business specializing in cannabis cultivation in Las Vegas, Nevada.

6. Within the past three years Plaintiffs were employees of this cannabis operation.

7. Defendants were obligated to pay Plaintiffs their minimum wages and overtime on their scheduled payday which per the company's handbook was bi-weekly (every two weeks) on every other Wednesday.

8. In fact Plaintiffs were never paid on every other Wednesday but instead were paid late every pay period, ranging from one to four days.

9. Plaintiffs were paid in cash and had to sign a slip each pay period showing that they received the wages for the pay period and the date they were paid. Thus Defendants should have documentation of when the Plaintiffs were actually paid every other week in relationship to when they were required to be paid.

10. Finally Defendants actions in not paying Plaintiffs' minimum wages and overtime compensation was willful and was not done in good faith or on reasonable grounds.

CAUSE OF ACTION

(Failure to Pay Minimum Wages and Overtime

Wages on Time in Violation of the FLSA)

11. Plaintiffs incorporate the allegations set forth in paragraphs 1 through 10, inclusive, as if fully set forth herein.

12. Failure to pay wages on time, even if it involves a short period of time, violates the FLSA. *See Martin v. United States*, 130 Fed. Cl. 578 (Feb. 13, 2017).

13. The courts have held that a cause of action under the FLSA for unpaid minimum wages or unpaid overtime compensation and for liquidated damages accrues when the employer fails to pay the required compensation and liquidated damages accrues when the employer fails to pay the required compensation for any workweek at the regular pay day for the period in which

1 the workweek ends. *29 CFR §790.21(b)*, *Briggs v. Wilson*, 1 F.3d 1537, 1540 (9th Cir. 1993).

2 14. Defendants uniformly failed to pay Plaintiffs their minimum wages [*FLSA*
3 *§206(a)(1)*] and overtime compensation [*FLSA §207(a)(1)*] on time.

4 15. Per the Defendants' company handbook they were obligated to pay Plaintiffs on the
5 scheduled payday which per the company handbook was bi-weekly on every other Wednesday.

6 16. In fact Plaintiffs were never paid on every other Wednesday but instead were paid
7 late every pay period, ranging from one to four days.

8 17. Further since Plaintiffs were paid in cash and had to sign a slip each pay period
9 showing that they received the wages for the pay period, Defendants should have evidence of
10 when the Plaintiffs were actually paid in relationship to when they were required to be paid.

11 18. Federal law mandates that an employer is required to keep payroll records which
12 include, among other things, when and how much an employee was paid. *29 CFR §§516.2 and*
13 *516.5*.

14 19. As a direct and proximate result of Defendant violating the FLSA, Plaintiffs have
15 suffered monetary damages and other damages to be proven at trial.

16 20. Defendants' actions were with deliberate indifference to such right or were willful,
17 entitling Plaintiffs to an award of liquidated damages pursuant *29 USC §§216(b)* and *626(b)*.

18 21. Plaintiffs have incurred, and continue to incur, attorney's fees in the prosecution of
19 their claims. Plaintiffs therefore seek an award of reasonable attorney's fees, in a sum according to
20 proof at trial.

21
22 PRAYER FOR RELIEF

23 WHEREFORE, Plaintiffs pray that this Court grant relief against Defendants as follows:

24 1. For declaratory relief that Defendants have violated its statutory and legal obligation
25 and deprived Plaintiffs of their rights, privileges, protections and compensation under the law, that the
26 violations were not in good faith and that Defendants did not have reasonable grounds for believing
27 that its acts complied with its obligation under the FLSA, and that the violations were willful;
28

2. For monetary damages and other damages pursuant to the FLSA;
3. For liquidated damages under the FLSA in an amount equal to Plaintiffs minimum wages and overtime compensation that should have been paid on their scheduled paydays but instead was paid one to four days late each period;
4. For attorney's fees and costs under the FLSA in an amount determined by the court to be reasonable;
5. For pre-judgment interest on all damages; and
6. For any other and further relief that the Court considers proper.

DATED: 11/16/2020

LAW OFFICES OF MICHAEL P. BALABAN

BY: /s/ Michael P. Balaban

Michael P. Balaban, Esq.

LAW OFFICES OF MICHAEL P. BALABAN

10726 Del Rudini Street

Las Vegas, NV 89141